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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,223	01/16/2002	Martin Schautt	DT-6057	6390

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[REDACTED] EXAMINER

GAY, JENNIFER HAWKINS

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

3672

DATE MAILED: 01/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/050,223	SCHAUTT, MARTIN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jennifer H Gay	3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_\_ .

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-6 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-6 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .                    6) Other: \_\_\_\_\_ .

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Specification***

2. The abstract of the disclosure is objected to because the abstract was constructed as a single sentence instead of a narrative paragraph. Correction is required. See MPEP § 608.01(b).
3. Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.  
The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.
4. The disclosure is objected to because of the following informalities: on page 7, line 4, "2a" should be changed to --3a--.  
Appropriate correction is required.

### ***Claim Objections***

5. Claims 1 and 4 are objected to because of the following informalities: in line 3 of claim 1, the semicolon after "(2)" should be deleted, in line 2 of claim 4, the comma after "by" should be deleted, in lines 2 and 3, claim 4, "a edge" should be changed to --an edge--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Neukirchen et al. (US 5,492,187).

*Regarding claim 1:* Neukirchen et al. discloses the hard metal drilling head of a rock drill where the drilling head includes the following features:

- A main bit (4).
- Two auxiliary bits (5 and 6) that are located in a radially outer region of the drilling head and have multiple cutting edges (see Figures 2-4).

*Regarding claim 3:* The main bit has two diametrically offset cutting edges (4a and 4b).

*Regarding claim 4:* The two cutting edges connect at the tip of the drilling head to form an edge (see Figure 3).

*Regarding claim 5:* The auxiliary bits are axially offset from a generating curve of the main bit (see Figure 3 and col. 4, line 33-38)

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3672

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neukirchen et al. (US 5,492,187) in view of Hauptmann et al. (US 2001/0013430).

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

*Regarding claim 2:* Neukirchen et al. discloses all of the limitations of the above claims except for the cutting edges of the auxiliary bits being extensively axially rounded. As seen in Figures 1 and 4, Hauptmann et al. teaches a drilling head similar to that disclosed in Neukirchen et al. but further includes auxiliary bits with axially rounded cutting edges. It would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have made the auxiliary bit cutting edges of Neukirchen et al. axially rounded as taught by Hauptmann et al. in order to have formed a recess through which drillings can be removed from the drill tip (paragraph 0030).

*Regarding claim 6:* Neukirchen et al. discloses all of the limitations of the above claims except for the auxiliary bits forming a pointed wedge angle of between 50° and 80°. In paragraph 0016, Hauptmann et al. teaches that the auxiliary bits form an angle between 40° and 90°. It would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have formed the auxiliary bit with an angle that required only a small rotational angle be bridged.

### **Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The remaining references made of record disclose various drill bits similar to those described above.

Art Unit: 3672

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer H Gay whose telephone number is (703) 308-2881. The examiner can normally be reached on Monday-Friday, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (703) 308-2151. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

JHG  
January 24, 2003



William Neuder  
Primary Examiner